

Tax Provisions (Title VII). Title VII of H.R. 333 would alter several provisions related to tax claims. It would alter the treatment of certain tax liens, disallow the discharge of taxes resulting from fraudulent tax returns under chapter 13 or chapter 11 of the bankruptcy code, require periodic cash payments of priority tax claims, and specify the rate of interest on tax claims. Title VII also would change the status of assessment periods for tax claims and would alter various

administrative requirements. Based on information from the Internal Revenue Service and the Joint Committee on Taxation, CBO estimates that these provisions would increase revenues, but that any increase would be negligible.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The means-testing, waiver of fees, and

changes in filing fees provisions would affect receipts, and the additional judgments would increase direct spending; hence, pay-as-you-go procedures would apply. The net changes in outlays and governmental receipts are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

	By fiscal year, in millions of dollars										
	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Changes in outlays	0	2	4	4	4	4	4	4	2	2	2
Changes in receipts	0	-45	-53	-54	-54	-54	-54	-54	-54	-54	-54

Estimated impact on state, local, and tribal governments: H.R. 333 contains intergovernmental mandates as defined in UMRA, but such costs would not be significant and would not exceed the threshold established in that act (\$55 million in 2000, adjusted annually for inflation). Overall, CBO expects that enacting this bill would benefit state and local governments by enhancing their ability to collect outstanding obligations in bankruptcy cases.

Mandates

Section 227 of the bill would preempt state laws governing contracts between a debt relief agency and a debtor, but only to the extent that those state laws are inconsistent with the federal requirements set forth in this bill. Such preemptions are mandates as defined in UMRA. Because the preemption would not require states to change their laws, CBO estimates the costs to states of complying with this mandate would not be significant.

Section 719 would require state and local income tax procedures to conform to the Internal Revenue Code with regard to dividing tax liabilities and responsibilities between the estate and the debtor, the tax consequences of partnerships and transfers of property, and the taxable period of the debtor. CBO estimates that this provision would increase costs for the administration of state and local tax laws, but would not require state and local tax rates to conform to the federal rates. Such administrative costs would not be significant and would likely be offset by increased collections.

Section 1310 would prohibit state courts from recognizing or enforcing certain foreign judgments. Based on the small number of potential cases and the small likelihood that those cases would be heard in state courts, CBO estimates that there would be no significant costs associated with complying with this mandate.

Other impacts

The changes to bankruptcy law in the bill would affect state and local governments primarily as creditors and holders of tax or child support claims against debtors. In addition, it would change some of the state statutes that govern which of a debtor's assets are protected from creditors in a bankruptcy proceeding.

A 1996 survey of the 50 states conducted by the Federation of Tax Administrators and the States' Association of Bankruptcy Attorneys, the most recent data available, indicated that more than 360,000 taxpayers in bankruptcy owed claims totaling about \$4 billion. Of these claims, states reported collecting only about \$234 million. Total bankruptcy filings have increased since 1996. While CBO cannot predict how much more money might be collected, it is likely that states and local governments would collect a greater share of future claims than they would under current law.

Exemptions. Although bankruptcy is regulated according to federal statute, states are allowed to provide debtors with certain exemptions for property, insurance, and other items that are different from those allowed

under the federal bankruptcy code. (Exempt property remains in possession of the debtor and is not available to pay off creditors.) In some states debtors can choose the federal or state exemption; other states require a debtor to use only the state exemptions. The bill would reduce the value of a debtor's homestead exemption under certain circumstances and create a new exemption for certain retirement funds and education savings plans. This bill also would place a ceiling of \$100,000 on the exemptions for the value of certain property acquired in the two years prior to a bankruptcy filing under certain circumstances.

These exemption standards would apply regardless of the state policy on exemptions. The new homestead exemption and property-value limitation could make more money available to creditors in some cases, while the exemptions on retirement and education savings generally would make less money available.

Domestic Support Obligations. The bill would significantly enhance a state's ability to collect domestic support obligations, including child support. Domestic support obligations owed to state or local governments would be given priority over all other claims, except those same obligations owed to individuals. The bill would make these debts nondischargeable (not able to be written-off at the end of bankruptcy). The bill also would require that filers under chapter 11 and 13 cases pay domestic support obligations owed to government agencies or individuals in order to receive a discharge of outstanding debts. In addition, under this bill, the automatic stay that is triggered by filing bankruptcy would not apply to domestic support obligations owed by debtors or withheld from regular income, as it currently does. The bill also would require bankruptcy trustees to notify individuals with domestic support claims of their right to use the services of a state child support enforcement agency, and notify the agency that it has done so. The last known address of the debtor would be a part of the notification.

Tax Payment Plans. The bill would require that payment plans for tax liabilities be limited to five years and that payment amounts be regular and not less favorable than payments for other obligations. Under current law, taxing authorities sometimes face payment plans that include a series of small payments over time followed by a large balloon payment near the end of the planned payment stream. At that point, the debtors often fail to complete their payments. This provision would require that taxes be paid at a rate proportionate to those of other debts, but does not specifically prohibit balloon provisions. It also would establish interest rates to be applied to outstanding tax liabilities. Under current law, any interest charges on outstanding tax liabilities are determined at the discretion of the bankruptcy judge.

However, this status is granted only if a tax is assessed within a specific period of time from the date of the bankruptcy filing. If that filing is subsequently dismissed and a

new filing is made, the tax claim may lose its priority status. The bill would make adjustments to this provision, allowing more time to pass in some circumstances, thus increasing the likelihood that state or local tax claims would maintain their priority status.

Taxes and Administrative Expenses. Under current law, certain expenses and the priority of claims reduce the funds that would otherwise be available to pay tax liens on property. The bill would increase the priority of those liens in certain circumstances against certain expenses and claims, thereby making it more likely that funds would remain available to cover tax obligations. Governmental units would not be required to file a request for certain administrative expenses as a condition of being allowed such an expense. The bill also would allow state and local governments to claim administrative expenses for costs incurred by closing a health care business.

Fuel Tax Claims. Under current law, all states owed fuel tax under the International Fuel Tax Agreement have to file separate claims against debtors under the bankruptcy code. The bill would allow a state designated under the agreement to file a single claim on behalf of all states owed the fuel taxes. This would simplify the filing process.

Tax Return Filing. A number of provisions in the bill would require debtors to have filed tax returns, and in some cases to be current in their tax payments, before a bankruptcy case may continue. These provisions would help states identify potential claims in bankruptcy cases where they may be owed delinquent taxes.

Priority of Payments. In some circumstances under current law, debtors have borrowed money or incurred some new obligation that is dischargeable (able to be written-off at the end of bankruptcy) to pay for an obligation that would not be dischargeable. This bill would give the new debt the same priority as the underlying debt. If the underlying debt had a priority higher than that of state or local tax liabilities, state and local governments could lose access to some funds. However, it is possible that the underlying debt could be for a tax claim, in which case the taxing authority would face no loss. Because it is unclear what types of nondischargeable debts are covered by new debt and the degree to which this new provision would discourage such activity, CBO can estimate neither the direction nor the magnitude of the provision's impact on states and localities.

Single Asset Cases. One provision of the bill would allow expedited bankruptcy proceedings in certain single asset cases (usually involving a large office building). State and local governments could benefit to the extent that real property is returned to productive tax rolls earlier as a result of this provision.

Municipal Bankruptcy. The bill would clarify regulations governing municipal bankruptcy actions and allow municipalities that have filed for bankruptcy to liquidate certain financial contracts.